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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,028	04/15/2004	Steven V. Jones	BR8843	7480
28268	7590	07/03/2006	EXAMINER	
THE BLACK & DECKER CORPORATION 701 EAST JOPPA ROAD, TW199 TOWSON, MD 21286			SHARP, JEFFREY ANDREW	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



### **DETAILED ACTION**

[1] This action is responsive to Applicant's request for continued examination filed on 04 April 2006 with regard to the final office action mailed on 01 November 2005.

#### ***Status of Claims***

[2] Claims 1-10, and 12-21 are pending.

#### ***Response to Arguments/Remarks***

[3] Claims 1-3, 5, 6, 10, 14, 17, 19, and 21 were previously rejected under 35 U.S.C. 103(a) as being obvious over Huck US-2,040,939 in view of Hull US-483,806.

Applicant's arguments/remarks with regard to this rejection have been fully considered, but are moot in view of the following new grounds of rejection necessitated by amendment.

[4] Claims 7, 8, 9, 12, 15, 16, 18, and 20 were previously rejected under 35 U.S.C. 103(a) as being obvious over Huck US-2,040,939 in view of Hull US-483,806 and Rea US-2,759,082.

Applicant's arguments/remarks with regard to this rejection have been fully considered, but are moot in view of the following new grounds of rejection necessitated by amendment.

[5] Claims 1-10 and 12-21 were previously rejected under 35 U.S.C. 103(a) as being obvious over Huck US-2,040,939 in view of Hull US-483,806 and Rea US-2,759,082.

Applicant's arguments/remarks with regard to this rejection have been fully considered, but are moot in view of the following new grounds of rejection necessitated by amendment.

*New Grounds of Rejection*

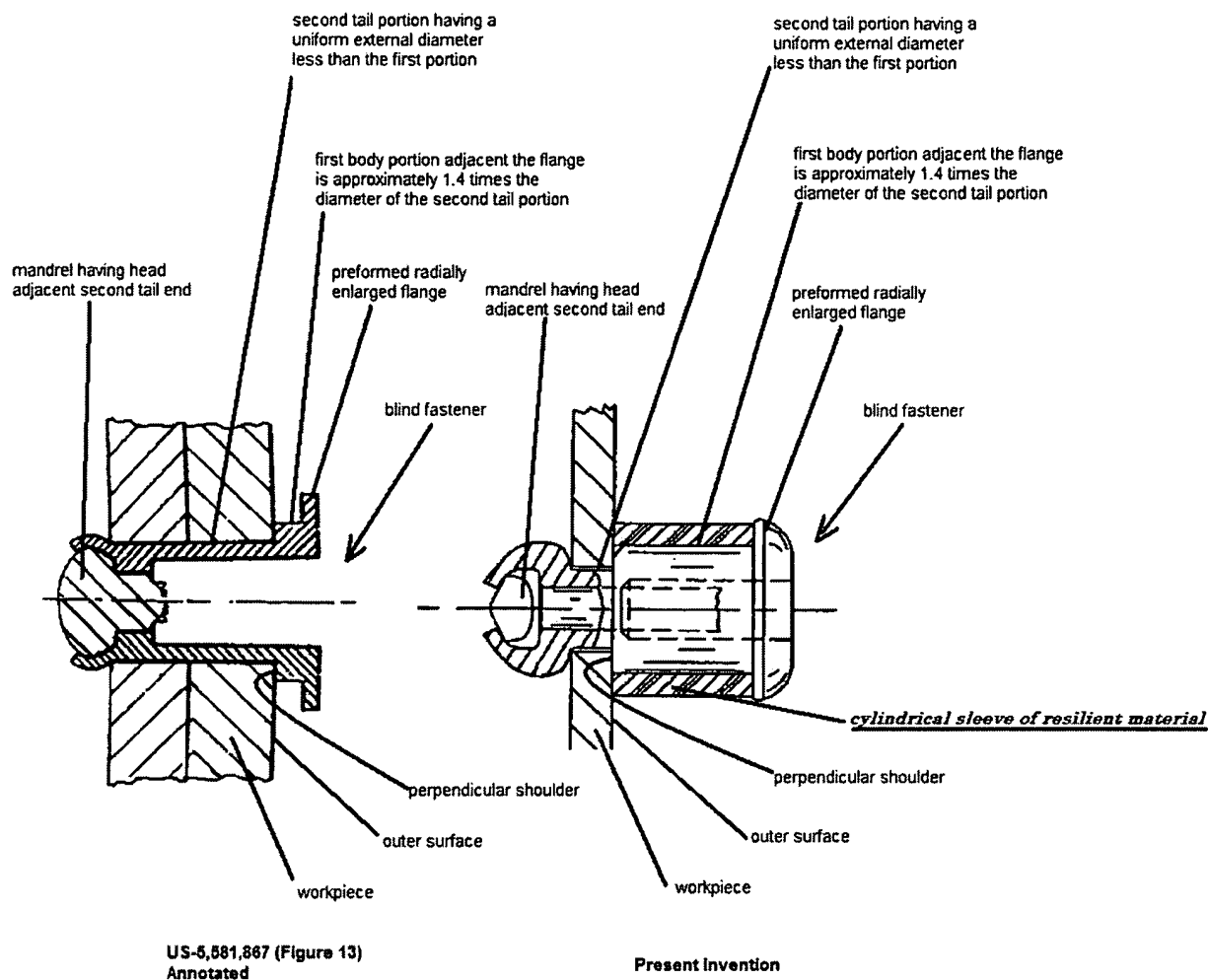
*Claim Rejections - 35 USC § 103*

[6] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

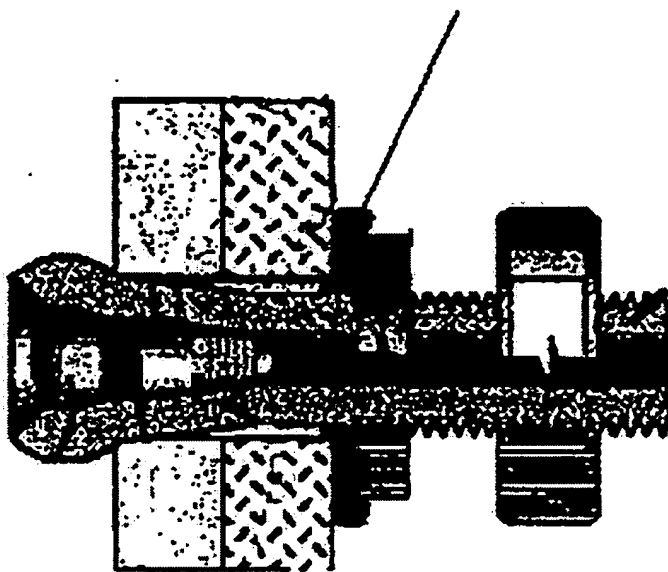
[7] Claims 1, 2, 4-10 and 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaquere US-5,581,867 in view of Aasgaard US-5,915,901.

In short, Gaquere teaches or at least suggests each and every limitation found in claims 1-10 and 12-20, except for a "cylindrical sleeve of resilient material", said sleeve "acting as a stop". Examiner has provided a clear comparison of the present invention with base reference Gaquere in the illustration below:



Aasguar suggests a cylindrical sleeve of resilient material around the body of a blind fastener adjacent to a preformed radially enlarged flange, in order to provide "additional sealing capability". This sleeve inherently acts as a (broad) "stop" for at least the radially extending flange, so that the flange is prevented from contacting the workpiece. Aasguar suggests that the material of the cylindrical sleeve is variable, and therefore, one of ordinary skill in the art would be inclined to use any material that is sufficient for sealing.

**Aasgaard suggests placing a gasket around the body adjacent the outwardly-extending flange in order to provide "additional sealing capability"**



**Additionally, a washer or gasket 734 made of rubber, vinyl, plastic, or the like may be disposed between the outer work piece 726 and the head 736 of the rivet body 722 to provide additional sealing capability.**

Therefore, at the time of invention, it would have been obvious to one of ordinary skill in the art, to modify the blind fastener taught by Gaquere, to comprise a cylindrical sleeve of resilient material around the body of a blind fastener adjacent to a preformed radially enlarged flange as suggested by Aasgaard, in order to improve the sealing characteristics of the blind fastener. Although Applicant's intended use of the sleeve is to act as a stop for a carrier member, it is not required that the prior art disclose or suggest the properties newly-discovered by an

Art Unit: 3677

applicant in order for there to be a prima facie case of obviousness. *See In re Dillon, 919 F.2d 688, 16 USPQ2d 1897, 1905 (Fed. Cir. 1990)*. In this case, one would be motivated to employ a resilient sleeve for sealing purposes instead of "stopping" purposes.

Examiner notes that US-4074,608 to Siebol also suggests a cylindrical sleeve of resilient material around the body of a blind fastener adjacent to a preformed radially enlarged flange, and around a larger diameter first body portion, for sealing enhancement. Likewise, US-4,580,936 to Francis et al. also suggests a cylindrical sleeve of resilient material around the body of a blind fastener adjacent to a preformed radially enlarged flange for sealing enhancement. Furthermore, US-4,696,610 to Wright suggests a cylindrical sleeve of resilient material around the body of a blind fastener adjacent to a preformed radially enlarged flange for sealing enhancement. The prior art as a whole would render a cylindrical sleeve of resilient material obvious to those of ordinary skill in the art.

As for claim 10 and 13, Applicant does not appear to show a "closed end" of the body in the drawings. Therefore, the Examiner has treated these limitations broadly, because in a sense, the second tail end of the body is "open" prior to setting the blind fastener, and "closed" after setting the fastener. In any case, US-5,569,005 (Figure 3) and US-4,104,952 (Figure 11) appear to render a closed end body prior to setting obvious, since both of these references contain each and every feature of the present invention's body. Note US-4,104,952 even shows a carrier (32,33) contacting a "stop" area of the enlarged first portion (18) of the body adjacent the flange (16).

As for claim 21, Gaquere teaches a carrying member (460) moveable from a first position (Figure 11) to a second position (Figure 12, designated by the letter I), which would come into contact with an exposed stop surface of the cylindrical sleeve of resilient material.

[8] Claims 1-3 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaquere US-5,581,867 in view of Siebol US-4074,608.

In short, Gaquere teaches or at least suggests each and every limitation found in claims 1-10 and 12-20, except for a "cylindrical sleeve of resilient material", said sleeve "acting as a stop". This is clearly shown above.

Siebol suggests a cylindrical sleeve of resilient material (31) around the body of a blind fastener adjacent to a preformed radially enlarged flange (24), and around a larger diameter first body portion (22), for sealing enhancement between the flange (24) and an outer surface (35) of a workpiece (34).

Therefore, at the time of invention, it would have been obvious to one of ordinary skill in the art, to modify the blind fastener taught by Gaquere, to comprise a cylindrical sleeve of resilient material around a larger diameter first portion of the body of a blind fastener adjacent to a preformed radially enlarged flange as suggested by Siebol, in order to improve the sealing characteristics of the blind fastener. Although Applicant's intended use of the sleeve is to act as a stop for a carrier member, it is not required that the prior art disclose or suggest the properties newly-discovered by an applicant in order for there to be a prima facie case of obviousness. *See In re Dillon*, 919 F.2d 688, 16 USPQ2d 1897, 1905 (Fed. Cir. 1990). In this case, one would be motivated to employ a resilient sleeve for sealing purposes instead of "stopping" purposes.



[9] Claim 21 is further rejected under 35 U.S.C. 103(a) as being unpatentable over Gaquere US-5,581,867 in view of Siebol US-4074,608 as discussed above, in even further view of Dolch US-4,236,429.

In short, Gaquere v. Siebol suggest each and every limitation found in claim 19, but the combination fails to suggest a carrier member contacting the cylindrical sleeve of resilient material.

Dolch suggests a carrier member (16) under a specially configured preformed radially extending flange (15), and around a larger diameter first body portion, in order to advantageously utilize space under the flange (15).

Therefore, at the time of invention, it would have been obvious to one of ordinary skill in the art, to modify the blind fastener taught by Gaquere v. Aasgaard, to further comprise a carrier member (16) as suggested by Dolch, in order to make advantageous use of the space under the flange.

Applicant is reminded that claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

### ***Conclusion***

[10] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

**See form PTO-892**

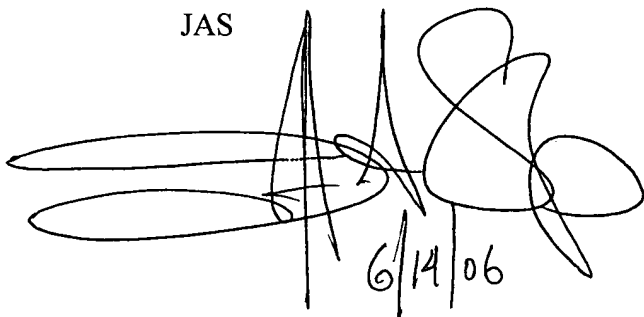
Art Unit: 3677

[11] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Sharp whose telephone number is (571) 272-7074. The examiner can normally be reached 7:00 am - 5:30 pm Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAS



6/14/06



ROBERT J. SANDY  
PRIMARY EXAMINER